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10/506,849	06/22/2005	Fabrice Malard	IC&M 3.3-001	4658

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EXAMINER

PIHULIC, DANIEL T

ART UNIT PAPER NUMBER

3662

MAIL DATE DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/506,849

**Applicant(s)**

MALARD, FABRICE

**Examiner**

Daniel Pihulic

**Art Unit**

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20050622</u> . | 6) <input type="checkbox"/> Other: ____  |

1. Claims 10-28 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 7/1, 7/2, 7/3, 8/7/1, 8/7/2, 8/7/3, 9/8/7/1, 9/8/7/2 and 9/8/7/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US20040111898 in combination with US5287627. The US20040111898 reference discloses the utilization of a combination tool comprising: a housing (11) having a first end and a second end; a laser device (see paragraph [0023]); and a sonic device (see paragraph [0025]) connected to said housing and being adapted to project signals for measuring distances between said tool and a spaced object as recited in claim 1. The difference between the US20040111898 reference and claim 1 is that the claim recites the laser device is rotatably mounted to said housing. The US5287627 reference teaches

that it was well known in the art to utilize a laser device that is rotatably mounted to a housing (see Figures 13A-15). It would have been obvious to modify the US20040111898 reference to utilize a laser device that is rotatably mounted to a housing as motivated by the US5287627 reference to enable the US20040111898 system to take measurements parallel or perpendicular to a laser line.

With regards to claim 2, the US20040111898 reference discloses the utilization of a calculator (60) and the US5287627 reference teaches that it was well known in the art to utilize a microprocessor (see column 14, line 16).

With regards to claim 3, the US5287627 reference teaches that it was well known in the art to take measurements from a side of the device (see Figure 17).

With regards to claims 7 and 8, the US5287627 reference teaches that it was well known in the art to use a bracket (see Figures 8-11).

5. Claims 1-3, 7/1, 7/2, 7/3, 8/7/1, 8/7/2, 8/7/3, 9/8/7/1, 9/8/7/2 and 9/8/7/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over US20030218469 in combination with US5287627. The US20030218469 reference discloses the utilization of a combination tool comprising: a housing (15) having a first end and a second end; a laser device (see paragraph [0085]); and a sonic device (see paragraph [0074]) connected to said housing and being adapted to project signals for measuring distances between said tool and a spaced object as recited in claim 1. The difference between the US20030218469 reference and claim 1 is that the claim recites the laser device is rotatably mounted to said housing. The US5287627 reference teaches that it was well known in the art to utilize a laser device that is rotatably mounted to a housing (see Figures 13A-15). It would have been obvious to modify the US20030218469 reference to

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utilize a laser device that is rotatably mounted to a housing as motivated by the US5287627 reference to enable the US20030218469 system to take measurements parallel or perpendicular to a laser line.

With regards to claim 2, the US20030218469 reference discloses the utilization of a microcontroller (11) and the US5287627 reference teaches that it was well known in the art to utilize a microprocessor (see column 14, line 16).

With regards to claim 3, the US20030218469 reference discloses that it was well known in the art to take measurements from a side of the device (see Figure 1) and the US5287627 reference teaches that it was well known in the art to take measurements from a side of the device (see Figure 17).

With regards to claims 7-9, the US5287627 reference teaches that it was well known in the art to use a bracket (see Figures 8-11).

6. Claims 4-6, 7/4, 7/5, 7/6, 8/7/4, 8/7/5, 8/7/6, 9/8/7/4, 9/8/7/5 and 9/8/7/6 are rejected under 35 U.S.C. 103 as being unpatentable over US20040111898 or US20030218469 in combination with US5287627 as applied to claims 1 and 2 above, and further in combination with US5566098. The claims 4 and 6 additionally recite the utilization of display orientation means. The US5566098 reference teaches that it was well known in the art to utilize display orientation means (see the Abstract). It would have been obvious to modify the previous combination of references to utilize display orientation means responsive to gravity as motivated by the US5566098 reference to enable the system to be more easily read by a user.

With regards to claim 5, the US5566098 reference teaches that it was well known in the art to utilize mercury switches in a display orientation means (see the Abstract).

With regards to claims 7-9, the US5287627 reference teaches that it was well known in the art to use a bracket (see Figures 8-11).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Pihulic whose telephone number is 571-272-6977. The examiner can normally be reached on Monday and Wednesday through Friday from 5:30 a.m. to 4 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza, can be reached on 571-272-6979.

The fax phone numbers for the organization where this application or proceeding is assigned are:

571-273-8300 for official responses, and

571-273-6977 for unofficial communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the telephone number 800-786-9199.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

**/Daniel Pihulic/  
Daniel T. Pihulic  
Primary Patent Examiner  
T.C. Art Unit 3662**